

Lawrence Walker & wife vs. Adms of David Bernard

In Chancery¹

Petition of Lawrence and Nancy Walker was filed in Feb 1818.² The petition sought a final settling of David Bernard's estate with a division of land and slaves, stating:³

- that Nancy Walker was the daughter of David Bernard, who passed away some years ago (1804) and that she and Lawrence Walker were lately married
- that David died seized of 110 acres whereon he lived and an extensive estate, including six slaves
- that the widow Ann Bernard had gotten letters of administration but had kept most of the land, selling only a small part of it that she deemed useless
- that David was survived by four children: Armiger L., Sally, Benjamin and Nancy
- that Armiger had died intestate since then and had been under age 21 with no issue
- that the Administrator had not provided an account of her administration

In her answer, Ann Bernard stated:⁴

- that David did die intestate but not possessed of an estate as described
- that he had a tract of 100 acres and she was ready at any time to have her dower laid off
- that he did not have and was not entitled to a slave; that her father Armiger Lilly had loaned her a slave named Dicy for several years during David's lifetime but that it was several months after David's death that Dicy and her issue were left to Ann by her father's will
- that the debts against David's estate exceeded the sales of his property, and accounts of both are hereto annexed

Commissioners were appointed on 27 Jul 1818, instructed to work with the surveyor to set aside Ann Bernard's 1/3 part then divide the residue into three equal parts for Lawrence and Nancy, Benjamin and Sally. The court further ordered that Ann make an account of her administration of David Bernard's

¹ 1822-026, Fluvanna Co., Lawrence Walker & wife vs. Adms of David Bernard; Chancery Records Index, *Virginia Memory* (<http://www.virginiamemory.com/collections/> : accessed 7 May 2018).

² Ibid., 4.

³ Ibid., 2-3.

⁴ Ibid., 3-4.

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estate for examination by the same commissioners, who would make a report of their proceedings to the court.⁵

The commissioners' report was issued on 23 Jul 1822, along with the plat map showing how the land had been divided, i.e., with 29½ acres to Ann for her dower and 20 acres each to her three children.⁶ The report made no mention of the administrator's account.

NOTES:

Abstract of Armiger Lilley's will⁷

Will dated 11 Nov 1802; probate 25 Mar 1805

Wife Elizabeth

Sons: Samuel, Armiger, William, John, Pleasant, Robert

Daughters: Elizabeth Tuggle, Rachel Baskett, Anna Barnard, Mary Lilley

Exrs: Benjamin Bowles, David Shepherd, Christopher Clark

Wits: Samuel Richardson, William Richardson, Robert Furbush

Ann (Lilley) Bernard and her children:

Ann's father willed her two slaves, Peter and Dicey.⁸

Nancy Bernard apparently married at the age of 17 (as of the Feb 1818 petition) as she was born in Sep 1800, according to a later Chancery suit. Her brother Benjamin was born in Jan 1798 and their sister Sally was the oldest of the three children, having come of age (21) by Oct 1818.⁹

⁵ Ibid., 12. The account of Ann's administration was not mentioned in the commissioners' report and the appraisal of David's personal estate dated 22 Nov 1804 (pp. 9-10) is the only estate document found in this record.

⁶ Ibid., 13-14; the survey was completed on 15 Aug 1818. The amounts allotted total to 89½ acres.

⁷ "Virginia, Wills and Probate Records, 1652-1983," *Ancestry*; from *Abstract of Fluvanna County, Virginia Will Book No. 1*, prepared by Point of Fork Chapter, National Society Daughters of the American Revolution.

⁸ Ibid.; digitized copy of Armiger Lilley's will, part of Fluvanna Co. "Will Book Vol. 1 Old Style, 1777-1808" in this collection.

⁹ 1837-021, Franklin Co., Benjamin Bernard vs. Admr of Peter Bernard, Jr., etc.; Chancery Records Index, *Virginia Memory*.



Sherborn County to wit.

There above is a place of
 89 1/2 acres of Land, lying in the County aforesaid,
 belonging to David Burnard Jr. which was survey-
 ed and divided into four lots, each lot containing
 the quantity therein stated, by Virtue of an order of the
 County Court aforesaid and by the directions of James
 Payne, James Richardson, and William Payne Esrs.
 Then of the Commissioners named in said order

By Peter A. Ward S.S.C.
 The
 August 15th 1818

Shuanna County to wit: Pursuant to a Decree of the Court of said County (an attested copy of which is hereto annexed) We the Subscribers being three of the Commissioners in said Decree named attended by Peter H. Ware Surveyor of said County have proceeded to assign & allot to Ann Bernard widow and relict of David Bernard deceased her dower in the Land wherein the said David Bernard lived at the time of his death as described in the annexed Plat and also to divide the residue of the said Lands between the several Children of the said decedant as named in the annexed order. The said Land having been surveyed by the said Surveyor for that purpose and the annexed Plat thereof furnished the said Surveyor proceeded under the direction of the Subscribers to ~~assign and allot~~ lay off the said Lands in the manner described in the said annexed Plat: and we thereupon allotted and assigned to the said Ann Bernard as her dower the Lot designated in said Plat by Number 1. containing twenty nine and half Acres - To Lawrence Walker in right of his wife Nancy the Lot designated by Number 2. containing twenty Acres - To Benjamin Bernard the Lot designated by ~~the~~ Number 3. containing Twenty Acres and to Sally Bernard the Lot designated by Number 4 containing twenty Acres - Given under our hands this 23rd Day of July 1822

Jas. Richardson
Payne
Wm. Payne

The return of William Pastore Sheriff of this County sworn and administered October 1817
 ted his undersheriff.

Nancy Bannard infant orphan of David Bannard deceased with the assent of the Court made choice of Lucretia Walker for her guardian, who together with Salmon Pace and William Walker his security, entered into and acknowledged their bond in the sum of Fifty thousand dollars, with conditions according to law.

A List of Insolvents in the land Tax of this County for the present year was this day returned by George H. Sutherland deputy for William Pastore Sheriff of this County and he having made oath to the same according to law, the same upon being examined by the Court is allowed and ordered to be certified to the auditor of public accounts.

A List of Insolvents in the land Tax in this County for the present year was this day returned by Hardin Key deputy for William Pastore Sheriff of this County and he having made oath to the same according to law, the same upon being examined by the Court is allowed and ordered to be certified to the Auditor of public accounts.

Agnes Owen late Agnes Riddell one of the daughters and heirs of Robert Riddell deceased, and one of the heirs of Alexander Riddell deceased who was one of the sons and heirs of the said Robert Riddell deceased. Plaintiff.
 against

James Abercrombie and Mary his wife late Mary Riddell the infant Robert Riddell an infant under the age of twenty one years by Rich. Phancery and Canoll his next friend and Guardians and Richard Canoll and Smith his wife late Judith Riddell widow and relict of Robert Riddell deceased, of whom the said Mary and Robert are both children and heirs of the said Robert Riddell deceased and who are also heirs of the said Alexander Riddell decd Defendants

On hearing the bill filed in this suit, the Court doth assign Rich. and Canoll as Guardians for the infant defendant Robert Riddell to defend him in this suit; who thereupon by his said Guardians, together with the other defendants, filed their answer to said bill, admitting the truth of the allegations in said bill contained. And it appearing to the satisfaction of the Court, that the facts and circumstances in the bill mentioned, into the

May 18 1858
 Said above and below the Old Well whereof Fortino Pace is Surveyor
 in addition to the former hands and a part in keeping the same in
 lawful repair.

Lawrence Walker and Nancy his wife late Nancy Bernard,
 one of the children heirs and distributees of the Estate of David
 Bernard deceased. Plaintiffs

against
 Anne Bernard widow and relict and administration on the } In
 Estate of David Bernard deceased Sally Bernard and Rom } Chancery
 -jamin Bernard children heirs and distributees of the estate }
 of said decedant. Defendants

On the Motion of the plaintiff by his counsel and it
 appearing to the Court that the Bill of the said Plaintiffs have been
 filed and the Subpoena served on the Defendants to answer the same
 for more than three months, and the said Defendants still failing
 to appear and answer said Bill. It is decreed and ordered that the
 said Bill be taken for confessed and the Court will at a future day
 proceed to decree the matter thereof unless the said Defendants shall
 at or before the next Court after they shall have been served with
 a copy of this decree appear and shew cause to the contrary.

Absent. Ruben Crowdsom.

James G. Mayo is by the Court recommended to the Executive of this
 Commonwealth as a fit and proper person to execute the Office of Captain
 in the second Battalion of the Militia in this County in the room
 of John Jones resigned.

Richard Noell is by the Court recommended to the Executive of this
 Commonwealth as a fit and proper person to execute the Office of Lieu-
 tenant in the second Battalion of the Militia in this County in the
 room of James G. Mayo promoted.

June 2
1878

For the said Defendant that in case the said Defendant shall be out in this writ he shall pay and satisfy the condemnation of the Court or tender his body to prison in execution for the same, or that he the said Matthew Long will do it for him, and thereupon the said Matthew Long brings here into Court the body of the said Defendant and surrenders him up in discharge of his undertaking and recognizance aforesaid, and he is therefore thereupon by the Court fully discharged, and on the prayer of the Plaintiff the said Defendant is committed to the custody of the Sheriff of this County.

Augustine Shepherd (for the benefit of Walter S. Johnson and Sonnets)
vs. ^{against} Walter Johnson.
Plaintiff } In
Defendant } Case

By direction of the Plaintiff's Attorney: It is ordered that this writ be dismissed.

Lawrence Walker and Nancy his wife late Nancy Bernard
one of the Children living and distributees of the Estate of David
Bernard deceased. } Plaintiffs
against
Ann Bernard widow and executrix of said David Bernard deceased
and Administratrix of his estate Sally Bernard and Benjamin
Bernard Children living and distributees of the Estate of David
Bernard deceased. } Defendants
In Chancery

The Answer of the Defendant Ann Bernard to the Plaintiff's Bill being this day filed, On her motion by her Counsel, it is ordered that the Decree Afc entered in this cause be set aside as to the said Defendant Ann Bernard.

This day Nathaniel H. Walcott aged about sixty two years resident of this County personally appeared in Court and made the following declaration in Oath. That he entered the service of the United States as a private soldier in the War of the Revolution some time in the year one thousand seven hundred and seventy seven or one thousand seven hundred and seventy

July 2nd 1788 Thomas his wife of the one part and William Morris of the other part do
 a certain tract or parcel of Land lying in the said County of Sturrow
 having been acknowledged by the said William Morris and wife
 before Chas. Ephraim and Christopher Magistrates of the City of Richmond
 upon being returned to the Clerk's Office was together with a Certificate of
 such acknowledgment therein endorsed admitted to record.

Teste John Timberlake C. C.

Which said Act being examined by the Court is ordered to be recorded.

Present David Shepherd.

James Currier Executor of Donald Ingersoll dec'd. Plaintiff
 against
 William Easton Sheriff of Minnema County and Committee
 of the estate of John Ingersoll deceased Defendant } In Chancery

On hearing the Plaintiff's Bill filed in this cause, and on the
 motion of the said Plaintiff by his Counsel, It is decreed and Ordered that the
 Defendant do and he is hereby restrained until the further order of Court
 from paying away to the Creditors of the decedant Ingersoll or otherwise assigning
 or sums of money collected or which may hereafter be collected on account of
 Bonds, Notes & transferred or assigned to the said decedant Ingersoll by
 Dudley Richardson in consideration of the purchase of the tract of Land
 in the Bill mentioned which was sold by the said Ingersoll as agent
 for the Plaintiff's Estate to the said Dudley Richardson.

Laurance Walker and Nancy his wife late Nancy Bernard
 one of the Children heirs and distributees of the Estate of
 David Bernard deceased Plaintiff
 against

Anne Bernard widow and relict of the said David Bernard
 deceased and Administratrix of his Estate, Sally Bernard and
 Benjamin Bernard Children heirs and distributees of the estate
 of the said decedant Defendant } In Chancery

The Defendants Sally Bernard and Benjamin Bernard
 having been duly served with a Copy of the Process issued in this cause
 and still failing to appear and answer the Plaintiff's Bill. On the motion
 of the Plaintiff by their Counsel the said Bill is as to the said Defendants

Shelley and Benjamin Bernard taken for confessed. And in hearing the said Bill and the Answer of the Defendant said Bernard. It is on the further motion of the Plaintiff decreed and Ordered that James Payne, Maria Tinsdale, John Omburnes, James Richardson and William Payne four or any three of them as Commissioners hereby appointed attended by the Surveyor of this County do assign and allot to the Defendant said Bernard in third part in value of the tract of Land in the Bill mentioned whereof her deceased husband David Bernard died seized and possessed to be held by her as and for her lawful dower therein and that themselves and Commissioners do divide the residue of said Land amongst the Plaintiff and the Defendants Shelley and Benjamin Bernard allotting to the Plaintiff one third part thereof and to the Defendants Shelley and Benjamin Bernard each one third part thereof. And it is further Ordered and decreed that the Defendant said Bernard do upon Oath make up an Account of her Administration in the estate of the said David Bernard deceased before the same Commissioners or any three of them to whom it is referred to examine state and settle the same and that said Commissioners make report of their proceedings herein to Court.

William D. Fitch Plaintiff
 against Samuel Johnson otherwise called Samuel C. Johnson Deft.

On the motion of the Plaintiff by his Counsel and it appears to the Court that the Bill of the said Plaintiff hath been filed and the Subpoena served on the Defendant to answer the same for more than three months and the said Defendant, still failing to appear and Answer said Bill. It is therefore Ordered that the said Bill be taken for confessed and the Court will at a future day proceed to decree the matter thereof unless the said Defendant shall at or before the next Court after he shall have been served with a Copy of this Decree appear and show cause to the contrary.

October
1819

Read and of her acknowledgment of the same before two Justices of the peace for this county, ordered to be recorded.

Lawrence Walker and Nancy his wife late Nancy Bernard one of the children heirs and distributees of the estate of David Bernard deceased

Plaintiffs

against

Anne Bernard widow and executrix of the said David Bernard dec'd and administratrix of his estate, Sally Bernard and Benjamin Bernard, children heirs and distributees of the estate of the said decedent.

Defendants

In Chan.

cery

This day came the parties by their attorneys and on hearing the Bill and answer and arguments of Counsel: it is decreed and ordered that James Payne, William Payne, junior, Horace Timberlake, John Emblund and James Richardson or any three of them as Commissioners for that purpose appointed do appraise and allot to the defendant Anne Bernard one third part of the slaves of which the said David Bernard did profess to be held as her dower in and of said slaves, and divide the residue of said slaves if practicable between the complainant in right of his wife and the defendants Sally Bernard and Benjamin Bernard and the said Defendant Anne Bernard as respects the part of her deceased child in the Bill mentioned and if not that the said Administratrix under the direction of the said Commissioners or any three of them do make sale of the residue of the said slaves remaining after allotting the said Defendant Anne Bernard her dower therein at public auction on twelve months credit and that she take bonds with good security from the purchasers payable to herself as administratrix aforesaid and divide such bonds according to the rights of the parties and that said Commissioners or those of them who may act do make report of all their proceedings herein to Court.

Memorandum at the trial of the last cause the Defendants counsel moved a Bill of exceptions to the proceedings of the Court in trying this cause without calling the regular chancery Docket it being the nineteenth cause on the said Docket which was received signed and sealed by the Court and ordered to be made a part of the record in this cause.